

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

IN RE MENTOR CORP. OBTAP	*	MDL Docket No. 2004
		4:08-MD-2004 (CDL)
TRANSOBTURATOR SLING PRODUCTS	*	
		Case Nos.
LIABILITY LITIGATION	*	4:13-cv-040 (Foster)

O R D E R

Plaintiff Tina Foster was implanted with ObTape on February 25, 2004. She contends that she suffered injuries caused by ObTape. Foster brought claims for negligence, strict liability - design defect, strict liability - manufacturing defect, strict liability - failure to warn, breach of implied warranties, breach of express warranties, fraudulent misrepresentation, fraudulent concealment, and negligent misrepresentation.

Mentor seeks summary judgment on Foster's breach of warranty claims. Foster does not contest Mentor's summary judgment motion on these claims, and she "does not intend to pursue claims for breach of implied or express warranty." Pl.'s Resp. to Def.'s Mot. for Partial Summ. J. 1, ECF No. 44 in 4:13-cv-40. Summary judgment is therefore granted as to those claims. Foster's claims for negligence, strict liability - design defect, strict liability - manufacturing defect, strict liability - failure to warn, fraudulent misrepresentation,

fraudulent concealment, and negligent misrepresentation remain pending for trial.

Within seven days of the date of this Order, the parties shall notify the Court whether the parties agree to a Lexecon waiver.

IT IS SO ORDERED, this 25th day of February, 2016.

s/Clay D. Land

CLAY D. LAND

CHIEF U.S. DISTRICT COURT JUDGE

MIDDLE DISTRICT OF GEORGIA